

# EXHIBIT 15



# THE UR-QUAN MASTERS

## FORUM

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 September 16, 2018, 06:55:55 am

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**News:** Yes. We have good news! Well, that is to say, we have no news. But it is good news.

[The Ur-Quan Masters Discussion Forum](#)  
[The Ur-Quan Masters Re-Release](#)  
[General Discussion \(Moderator: \[Death 999\]\(#\)\)](#)  
[Stardock Litigation Discussion](#)



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**Author**

**Topic: Stardock Litigation Discussion (Read 8729 times)**

**orzophile**  
 Zebranky food  
 ★  
 Offline  
 Posts: 9

**Re: Stardock Litigation Discussion**  
 « Reply #135 on: August 14, 2018, 08:19:51 am »

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**Quote from: Frogboy on August 14, 2018, 03:48:35 am**


No reasonable person is going to suggest that the SCO *Arlou* was derived from the SC2 *Arlou*.

While the "reasonable person" might not presuppose those two images of little green men-inspired aliens are direct copyright infringement, giving them the same name and characterization is straying in to the realm of plausibility. I can't draw a comic of Superman with a different color suit, interacting with a youthful Larry Totter brandishing his wand with a reversed lighting bolt on his forehead, in a commercial work about benevolent aliens from a lost homeworld come to earth to fight wizards at a boarding school and act completely shocked if someone suggests I may have a legal problem given such issues have been before US federal courts repeatedly, including as recently as 2013 (and possibly later, I don't claim an exhaustive knowledge) with varying results based on the particular facts of each case.


For the record I don't think the published SCO art is clear infringement and I'm willing to grant certain benefit of doubt that it wasn't intended as such, but to act as if there is no possible interpretation of it as potentially derived is a bold statement from someone with legal counsel.

Logged

**Krulle**  
 Enlightened  
 ★★★★★  
 Offline  
 Gender:   
 Posts: 878



\*Hurghi! Krulle is  
 \*spitting\* again!



**Re: Stardock Litigation Discussion**  
 « Reply #136 on: August 14, 2018, 11:45:49 am »

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**Quote from: Frogboy on August 14, 2018, 03:27:27 am**

If Star Control: Origins is infringing, even in the slightest, on someone's copyright, then we want to know about it. And since at least 2 people here claim that such infringement is obvious, public and easily obtained they should have no problem supply an example that exists in the game today. Because accusing a someone of criminal activity, which is what a copyright violation is, is a pretty serious allegation. It should not be made lightly.

I look forward to seeing Rosepatel and Cmdshep post the material they consider to be an infringement of copyrighted material. I am sure many lurkers would like to see what Paul and Fred fans believe falls under whatever copyrights they think they have. I'll even help them and repost their evidence in the Stardock community channels so that others can see Stardock's dastardly deeds.

See right above this post you posted.

**Quote from: CommanderShepard on August 14, 2018, 03:27:13 am**

Here you go <https://www.stardock.com/games/starcontrol/store> It even uses the full term "*Arlou* Lalee'lay" and then mentions in the story itself that the Chenjesu are crystalline and come from a crystalline world. If you had only used just the names, or, only just similar art, you would probably be able to get away with it and even probably people who overall side with F&P exclusively wouldn't have much of an issue with it, but both together is very easy to construe as an infringement on F&P's copyrighted content through derivative works.

I also remember several of your statements in the alleged direction, but I'm currently unwilling to dig through the threads.

It also doesn't matter much to me.

"Star Control aliens" is a very broad concept, with very little defining the borders.

Someone previously stated that all SC1, SC2, SC3 aliens form part of the SC:O universe, as they are present, even if unused in the current story in the alternative history universe of SC:O compared to SC1-3.

This makes the term "Star Control aliens" a term without borders, as you can write continuations with new aliens anytime, and thereby expand the term and its meaning endlessly.

At first I thought you/Stardock might interpret the term "Star Control aliens" as meaning the ones you created and will use under the "new meaning" of the trademark "Star Control (TM)" (i.e. Star Control games created by Stardock). But Stardock seems to try to expand the packaging to anything loosely related.

Whether the judges and jury will allow you to claim the limited meaning in court when defending against alleged copyright infringements, and the expanded meaning in public/advertising, remains to be shown.

Regarding the more specific SC:O and SC2 Arilou examples: the artwork alone will not be sufficient. The Arilou are simply an exaggeration of Alien tropes (**The Greys**; **Little Green Men** (flying saucers)). Just like the Asgard from Stargate (TM)

Spoiler (click to show/hide)

But to avoid copyright infringement, the artwork being sufficiently distinct may not be sufficient, if otherwise the Arilou's full name is Arilou Lalee'lay, and live on Falayalaralfali, in a nook of a different dimension than ours. (Haven't played SC:O, so I do not know how much background of SC:O Arilou is similar to SC2 Arilou.)

And if both Arilou are (have been) used within a package branded "Star Control (TM)", then making an assumption about the derivation is obvious. Claiming Stardock's Arilou has been derived from elsewhere becomes difficult. And the derivation is not a trademark issue, but a copyright issue.

On the other hand, as stated above, small grey aliens appearing from elsewhere and probing and prodding humanity is a trope, older than SC2. Whether the SC2 authors can actually claim a strong copyright on these alien's character is difficult, but in the game context and the given name, the copyright for "the creepy grey alien being named Arilou, or Arilou Lalee'lay" seems to be theirs, and Stardock seems to be encroaching the Intellectual Property of the authors of SC2.

Whether it is just encroaching the border, or already trespassing, is not for me to decide.

I have an opinion on it, but it's one that will not count, as it'll be extremely unlikely that I'll be a jury member in a panel that actually gets to decide.

Still looking forward to both games, even if I'm still unsure whether I want to buy a game from a company that filed trademark applications for things seemingly unrelated to the game they are making, and for names that are obviously in use in the same category already. Fully knowing of the existing earlier use of these names.

« Last Edit: August 14, 2018, 12:43:03 pm by Krulle »

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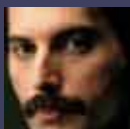
**tingkagol**

Zebranky food



Offline

Posts: 36



**Re: Stardock Litigation Discussion**

« Reply #137 on: August 14, 2018, 12:54:48 pm »

I don't know about you guys, but both the SC2 and SCO Arilou versions seem similar to me. It's at least enough to confuse fans of the original Arilou to rejoice that the "same" race is in SCO - at least Stardock's intent on that aspect is clear.

I will have to play SCO to find out who these "non-infringing" Arilou are exactly. 🙄

 Logged

**Death 999**Global Moderator  
Enlightened

Offline

Gender:   
Posts: 3763We did. You did. Yes  
we can. No.

« Last Edit: August 14, 2018, 01:50:42 pm by Death 999 »

Logged

**Krulle**

Enlightened



Offline

Gender:   
Posts: 878\*Hurghi\*! Krulle is  
\*spitting\* again!**Re: Stardock Litigation Discussion**

« Reply #139 on: August 14, 2018, 01:49:44 pm »

**Quote from: tingkagol on August 14, 2018, 12:54:48 pm**

I don't know about you guys, but both the SC2 and SCO Arilou versions seem similar to me. It's at least enough to confuse fans of the original Arilou to rejoice that the "same" race is in SCO - at least Stardock's intent on that aspect is clear.

I will have to play SCO to find out who these "non-infringing" Arilou are exactly.

Yes, this seems to be Stardock's intention. Especially when keeping the name.

Depending on setup, this is copyright infringement.

Artwork alone will not be decisive, as the Arilou are based itself based on "the Area 51 alien"...

How close you're allowed to get was severely limited by the lawsuits that followed the popularity of the Harry Potter (TM) series...

<http://www.trademarkandcopyrightlawblog.com/2015/07/harry-potter-lawsuits-and-where-to-find-them/>

Logged

**Frogboy**

\*Many bubbles\*



Offline

Posts: 226

**Re: Stardock Litigation Discussion**

« Reply #140 on: August 14, 2018, 02:01:49 pm »

Trademarks are about association. Copyrights are about copying.

We expect players to assume that the Arilou species is related to the Arilou species in SC2. That's trademark. No ifs or buts.

Copyright comes into play if you are copying the expression of it. And the SCO Arilou are not a copy of anything. They look closer to the Asgard from SG1 than to the art in SC2. They act differently. They share no lines of dialog.

As for the Superman analogy, actually there have been countless examples of Superman like characters over the years in comics. You should read Squadron Supreme which is basically Marvel's version of the Justice League. You can't copyright an idea.

Edit: one other thing, why resort to Harry Potter and Superman analogies? What elements of the Arilou expressed in SC2, besides art, is protected by copyright? If you're going to imply that the Arilou species, as expressed in SC2 is as developed as Harry Potter and Superman then you should have no problem explaining what you believe is copyrightsble about the SC2 Arilou expression.

« Last Edit: August 14, 2018, 02:12:57 pm by Frogboy »

Logged

**tingkagol**

Zebranky food



Offline

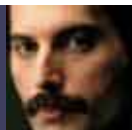
Posts: 36

**Re: Stardock Litigation Discussion**

« Reply #141 on: August 14, 2018, 02:14:38 pm »

I'm curious to see Stardock's "non-infringing" version of Fwiffo though.

...oh, and The Crimson Corporation too.



Logged

**Frogboy**

\*Many bubbles\*



Offline

Posts: 226


**Re: Stardock Litigation Discussion**

« Reply #142 on: August 14, 2018, 02:22:23 pm »

I welcome you to explain how you would infringe on any copyrights surrounding Crimson Corporation.

Logged

**Lakstoties**

 Frungy  
champion


Offline

Posts: 62


**Re: Stardock Litigation Discussion**

« Reply #143 on: August 14, 2018, 03:16:44 pm »

**Quote from: Frogboy on August 14, 2018, 02:01:49 pm**

Trademarks are about association. Copyrights are about copying.

 We expect players to assume that the Arlou species is related to the Arlou species in SC2. That's trademark. No ifs or buts.


More correctly... Trademark is about how the mark is associated with the SOURCE and ORIGIN of the product it is ON, NOT the product itself. The goodwill associated with the mark is directed towards the source and the quality and ideas about the SOURCE, NOT the actual product or service. Trademarks actually have very little to deal with actual products and services themselves apart from classification of what the mark will exist upon. In fact, the LESS the mark is associated with the aspects of the individual products and service the stronger it is considered. In fact with the "Descriptive Marks" category, the terms have to develop secondary meanings that associate with the SOURCE of the product that are distinct enough from the what the term means primarily to receive trademark protections.

Trademark strength fact sheet from the INTA:

<https://www.inta.org/TrademarkBasics/FactSheets/Pages/TrademarkStrengthFactSheet.aspx>

So a correct statement would be: Trademarks are about the association of the mark with the source/origin of the product. Copyrights are about managing the creative expression. That's what the USPTO itself says multiple times in its various literature.

And how Stardock has been proposing how to use trademarks has been struck down before and spawned various tests to reaffirm that trademarks are ONLY for branding and things OUTSIDE the product itself. See the Functionality Doctrine (trademarks CANNOT protect the functional/value adding elements of the product) and the Rogers Test (trademarks CANNOT limit freedom of expression within a creative work).

Functionality from the USPTO's Trademark Manual of Examination:

[https://www.bitlaw.com/source/tmep/1202\\_02\\_a\\_iii\\_A.html](https://www.bitlaw.com/source/tmep/1202_02_a_iii_A.html)

Rogers Test in context of Video Games from the INTA:

<https://www.inta.org/INTABulletin/Pages/LitigatingtheFirstAmendmentDefenseintheVideoGameContext.aspx>

For the curious, here's the general info about Trademarks from the United States Patent and Trademark Office. Note how they emphasize the fact the trademarks are the brandin/labels OUTSIDE and ON a product or service: <https://www.uspto.gov/trademarks-getting-started/trademark-basics>

Logged

**Frogboy**

\*Many bubbles\*



Offline


**Re: Stardock Litigation Discussion**

« Reply #144 on: August 14, 2018, 03:46:47 pm »

Posts: 226

Nice Internet lawyering, Lak.



What attracted my attention to this thread was the argument that Stardock was "stealing" or "copying" something from Star Control II.

We are still waiting for evidence to back up that claim. It's a very serious allegation.

At least CmdrShp posted his opinion. I noticed you didn't correct him, Lak or perhaps didn't read it. Why not state, publicly, whether you think copyright now covers consumer confusion and relationships.

I am quite certain that all parties would appreciate seeing any examples of actual copyright infringement. We would never want to copy someone else's work, even unintentionally and have taken effort to make sure our expressions of the Star Control aliens are our own.

Logged

**Elestan**

\*Smell\* controller



Offline

Posts: 377

**Re: Stardock Litigation Discussion**

« Reply #145 on: August 14, 2018, 04:10:53 pm »

**Quote from: Frogboy on August 14, 2018, 03:46:47 pm**

Nice Internet lawyering, Lak.



You really don't have standing to criticize. What he posted was a better sourced and more coherent argument than anything you've provided on the topic. So here, once again, you seem to be trying to argue your point by **demeaning the person arguing with you**.

**Quote**

I am quite certain that all parties would appreciate seeing any examples of actual copyright infringement. We would never want to copy someone else's work, even unintentionally and have taken effort to make sure our expressions of the Star Control aliens are our own.

Since the question of **Substantial Similarity** is a subjective question for the jury, I'm not sure how worthwhile arguing about it is. If it goes to trial, you'll be rolling the dice.

I am curious, though: You said that you "**reached into the Star Control name vault**" when naming these aliens. Can I ask who selected the name to put on this "new" alien race?

« Last Edit: August 14, 2018, 04:16:07 pm by Elestan »

Logged

**orzophile**

Zebranky food



Offline

Posts: 9

**Re: Stardock Litigation Discussion**

« Reply #146 on: August 14, 2018, 04:18:29 pm »

**Quote from: Frogboy on August 14, 2018, 02:01:49 pm**

Trademarks are about association. Copyrights are about copying.

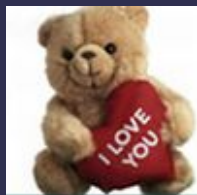
We expect players to assume that the *Arilou* species is related to the *Arilou* species in SC2. That's trademark. No ifs or buts.

Copyright comes into play if you are copying the expression of it. And the SCO *Arilou* are not a copy of anything. They look closer to the Asgard from SG1 than to the art in SC2. They act differently. They share no lines of dialog.

The reason I used an analogy was to deliberately step away from the specific *Arilou* discussion since many people involved clearly have an existing opinion about that or stake in the answer.

These sorts of issues have come up repeatedly in courts of law all over the world, and in the US specifically you can in fact exert copyright over sufficiently developed characters and characterizations whether as illustrations or narratives or theatrics, independent of any trademarks. The tests that have been established in US common law (since it isn't explicit in the US Code) are varied based on the nature of the complaints, and I'd be happy to go dig up specific, relevant examples if you'd be willing to donate the equivalent of a few hours of legal expenses to charity or such, but given you employ attorneys with experience in the area you'd probably really want to talk that over with them.

Sometimes things that might seem superficially derivative were determined to not be due to the





commonalities being abstract or non-specific enough, sometimes entirely different manifestations of a characterization were determined to be infringement of copyright -- I'm thinking of a case in which someone was selling physical cars that looked like one of the Batmobiles, and the court decided mostly with the plaintiff on that being copyright infringement.

If you really want to keep going over the Arllou, sure, you can't copyright the expression of little green men or simply the name. But every additional element of the expression added to a characterization that mimics specific details of the images or dialogue or relationships or themes, even if its not exact copies, is something that can be tested against legal precedence from dozens of cases in US courts. As I said, from what limited examples I've seen, I don't think it'd meet those tests, although it does kind of bother me that Stardock seems to be going into the territory of knockoffs like **Transmorphers** as to how much of it can be similar with the SC1/SC2 expressions. So it really should come as no surprise that some people might, reasonably, think that might be potential copyright infringement because lots of court cases have tread very similar ground with differing outcomes.

 Logged

### CommanderShepard

\*Many bubbles\*



Offline

Posts: 108



### Re: Stardock Litigation Discussion

« Reply #147 on: August 14, 2018, 04:29:52 pm »

Quote from: Frogboy on August 14, 2018, 02:01:49 pm

We expect players to assume that the Arllou species is related to the Arllou species in SC2. That's trademark. No ifs or buts.

Not exactly, because if you had instead made an independent foreign film in rural Asia about the struggles of an impoverished farmer, no one would have ever thought for a second that it had anything to do with Star Control. It's not just the name, it's the characters themselves under the same circumstances.

 Logged

### Krulle

Enlightened



Offline

Gender: 

Posts: 878



\*Hurghi\*! Krulle is  
\*spitting\* again!



### Re: Stardock Litigation Discussion

« Reply #148 on: August 14, 2018, 04:33:15 pm »

Quote from: Frogboy on August 14, 2018, 02:22:23 pm

I welcome you to explain how you would infringe on any copyrights surrounding Crimson Corporation.

Marking a whole race as being "owned by", as well as their whole economy, planet, breathable air, ...., as being owned by one monolithic company, no diversions from this.

The term "Crimson Corporation" per se would be difficult to be protected by copyright, but when you additionally associate it with a race named Druuge, who are all economically enslaved to this corporation, and inhibit the star region of the Persei star systems, you're not only getting close to, but have associated yourself with the creations made by others. If you do not have a license to use their copyright, well.....

Anyway, the US court system often enough decides differently (especially when a jury is involved), and far from any evidence.

See Monsanto/Glyphosat.

In those cases it all hinges on the definition of the term "if handled correctly".

Quote from: Frogboy on August 14, 2018, 02:01:49 pm

Trademarks are about association. Copyrights are about copying.

True, Copyright is about copying, and you seem to be copying the idea of the Arllou in SC2 into SC:O, without having a correct license.

Trademark is about association who markets this product. To define its origin.

Trademark itself is not about content, and if the product name has become extremely successful (and is solely associated with the product), then the trademark even loses value.

See "Vaseline", "Thermos", "Kleenex" (or in German language areas: "Tempo"), and "google". Who means "use google.com to search something" when writing "google it"?

I could visit [bing.com](http://bing.com) and still "google it". Google has tried to avoid having the term enter into dictionaries precisely for this reason.

The trademark has become "generic" and by that starts to fail denoting an origin (<http://www.kisch-ip.co.za/trade-mark-become-generic/>), but denotes a product.

In such cases the trademark failed, and everyone uses the trademark (a sign of origin) to name a specific category of products (independent from the origin and the owner of the trademark) (in case of "google": internet search engines, in case of "Kleenex": a paper facial tissue; in case of "Thermos": an insulated bottle to keep drinks hot or cold; in case of "Vaseline": a certain type of petroleum based lubrication and skin care product).

And the Harry Potter references I cited?

There is case law about others having written continuations (sequels) of Miss Joanne K. Rowling's Harry Potter series.

WB and Ms Rowling won many cases, but Ms. Rowling waived her rights on the condition that it is fanwork, and non-commercial (as well as sexually non-explicit).

You are basing your story on a universe created by someone else. Apparently without the proper license from the creators of that universe.

Therefore, you are leeching on the goodwill of their copyright.

See the similarities of the "Tanja Grotter" series compared to "Harry Potter". While the "Tanja Grotter" series is about a girl, it becomes difficult to argue copying of artwork. Yet courts decided that "Tanja Grotter" is more than just a parody, and the whole setting around it (magic school, parents killed by an evil sorceress, a scar in the facial region, ...) made it likely that copyright has been violated, and ordered to stop any sales in the EU. ([https://en.wikipedia.org/wiki/Tanya\\_Grotter](https://en.wikipedia.org/wiki/Tanya_Grotter)) The intentional resemblances were sufficient to decide that copyright has been violated.

With Stardock's Arilou (SC:O Arilou) and the UQM/SC2 Arilou I see the same. There are plenty of differences, so that the artwork itself is not violating copyright, but the whole setting (especially because the names are the same) does violate the copyright of the creators of SC2, who did not transfer their copyright to Accolade, nor has Stardock bought any copyrightable material from Star Control II (or Star Control 1) in the bankruptcy proceedings.

And you just wrote you explicitly want the people to think that the SC:O arilou has been derived from the SC2 Arilou.

**Quote from: Frogboy on August 14, 2018, 02:01:49 pm**

We expect players to assume that the Arilou species is related to the Arilou species in SC2.

And if you find Lak's "internet lawyering" "nice", then please be as kind as Lakstoties was, and provide some links to support your apparently ironic comment and side-brushing of his arguments.

« Last Edit: August 14, 2018, 04:36:39 pm by Krulle »

 Logged

**Frogboy**

\*Many bubbles\*

★★★★

 Offline

Posts: 226



**Re: Stardock Litigation Discussion**

« Reply #149 on: August 14, 2018, 05:20:25 pm »

In short: Lots of text and internet legal theorycraft, lots of unsubstantiated allegations. Not one example of where SCO is infringing on someone else's copyright.

**Quote**

And you just wrote you explicitly want the people to think that the SC:O arilou has been derived from the SC2 Arilou.

Derived and related are not the same. I'm not sure if this is a case where English isn't your first language or if you're intentionally changing the plain meaning of a word to suit your argument.

As I said:

**Quote**

We expect players to assume that the Arilou species is **related** to the Arilou species in SC2.

(emphasis mine)

Relations are issues of trademarks. Not copyrights. We expect players to recognize that Star Control: Origins is related to the classic series.

Originally, we had planned on simply referencing the classic games in our marketing. Unfortunately, Paul, Fred and their fans have chosen to attempt to confuse consumers into believing that Star



Control: Origins isn't related to the other Star Control games and therefore forced Stardock to have to take steps to reinforce that association by making use of Star Control aliens (by name) that appeared in previous games.

Look, I have no problem with you guys hanging out and spinning your wheels all day on this stuff. Where I have a big problem is where you outright claim we are copying or stealing something. We haven't and we don't appreciate people libeling us by claiming we have.

The onus isn't on me to prove a negative or to argue with someone's strawman argument or legal theory. The onus is the person alleging criminal behavior to show that X is illegal and let lurkers determine for themselves whether that is illegal. So far, not one of you has done that other than, maybe CmdS who keeps demonstrating that he thinks trademarks are actually copyrights (and that's fine, he's entitled to think what he wants just as we're entitled to point to posts like this examples of confusion).

You want to argue legal theory regarding an ongoing legal dispute, it's a free Internet. Knock yourself out. Accuse me or Stardock of criminal behavior on a forum that is supposedly moderated, and that's a different subject.

« Last Edit: August 14, 2018, 06:03:22 pm by Frogboy »

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